

### REMARKS

The specification has been amended to include a reference to prior Application Serial No. 09/387,776 filed on September 1, 1999, as required by 37 CFR 1.78(a)(2).

Claims 1-23 have been canceled. The pending application now contains claims 24-38.

Applicant submits that newly added claims 24-32 correspond to claims 1, 3, and 5-11 of copending prior Application Serial No. 09/387,776 filed on September 1, 1999. Claims 33-38 of the present application correspond to claims 24-29 of copending prior Application Serial No. 09/387,776. These claims were previously rejected under 35 U.S.C. § 103 in Application No. 09/387,776 wherein Sandhu et al. (U.S. Patent No. 6,086,442) was used as a basis for rejection.

Applicant also submits that the earliest effective filing date of the present application is September 1, 1999. Sandhu et al. (U.S. Patent No. 6,086,442) was filed on March 1, 1999 and issued on July 11, 2000. Sandhu thus qualifies as prior art under 35 U.S.C. § 102(e). In addition, the subject matter of Sandhu and of the claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same entity: Micron Technology, Inc. The Assignment for this application was recorded in the PTO on September 1, 1999, on Reel 010214, Frame 0100. The Assignee of Sandhu is shown on the face of the reference. Therefore, section 35 U.S.C. § 103(c) applies. According to MPEP § 706.02(l)(1), “[e]ffective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention ‘were, at the time the invention was made, . . . subject to an obligation of assignment to the same person.’” Accordingly, Sandhu is not a valid prior art reference and should be excluded under 35 U.S.C. § 103.

Application No.: NOT YET ASSIGNED

Docket No.: M4065.0206/P206-C

Allowance of the application is respectfully solicited.

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Respectfully submitted,

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